

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF EXAMINERS OF
ELECTRICAL CONTRACTORS

IN THE MATTER OF THE
LICENSE OF

JAMES BROWN
License #11842

TO PRACTICE ELECTRICAL
CONTRACTING IN THE STATE
OF NEW JERSEY

Administrative Action

FINAL ORDER
OF DISCIPLINE

This matter was opened to the New Jersey State Board of Examiners of Electrical Contractors upon receipt of information which the Board has reviewed and on which the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Respondent is a licensed electrical contractor in the State of New Jersey, and has been a licensee at all times relevant hereto.
2. The Board wrote to respondent on February 15, 2001 and March 13, 2001 with regard to a complaint by consumer William Abline, suggesting respondent provide restitution in the amount of \$76.24 to a Toms River consumer, inasmuch as it appeared that the consumer had to hire another contractor to correct violations on respondent's work which respondent failed to correct. The March 13 letter was sent certified and regular mail. Certified mail was signed for on March 19, 2001. No response was

8. Respondent further stated on October 17, 2001 that he would correct the violations in the work performed for Virginia Haley, and forward a copy of the final inspection to the Board. He stated that he would provide an update of the Virginia Haley matter to the Board within ten days. No such update or other communication was received.

9. Respondent offered no explanation of his earlier failure to respond to Board mail inquiries, although he acknowledged receiving them. T6-12 to 22.

10. Letters dated November 29, 2001, December 17, 2001, January 9, 2002 and February 21, 2002 were sent to respondent at his address of record from the Board's offices, by certified and regular mail, reminding respondent of his undertaking to the Board pursuant to his statements on October 17, 2001, as well as his duty to cooperate with Board investigations pursuant to N.J.A.C. 13:45C-1.2. Certified mail was returned unclaimed. Regular mail was not returned.

11. No response to these letters was received, nor was any explanation offered for respondent's failure to obtain a final inspection for the work he had performed for Virginia Haley, nor for his failure to provide the resitution of \$76.24 to William Abline.

CONCLUSIONS OF LAW

1. Respondent's failure to correct violations in his work following inspection constituted a violation of N.J.S.A. 45:5A-17(b) and N.J.A.C. 13:31-1.8, requiring licensees to ensure compliance with municipal inspection requirements and to correct violations within a reasonable time. This subjects respondent to sanctions pursuant to N.J.S.A. 45:1-21(h), violation of a regulation administered by the Board.

received.

3. On June 8, 2001, respondent was again contacted by certified and regular mail and requested to either provide restitution for the consumer, or to explain why he did not think this was an appropriate disposition. No response was received, although respondent was reminded in the letter of the duty of a licensee to cooperate with Board investigations. Certified mail was returned unclaimed on June 27, 2001; regular mail was not returned.

4. On June 27, 2002, the Board wrote to respondent by certified and regular mail with regard to a complaint by consumer Virginia Haley, alleging that respondent had not corrected violations following inspection of work performed by him, although he had been informed of the existence of these violations. Certified mail was returned unclaimed. Regular mail was not returned.

5. No response was received to the letter of June 27, 2002.

6. Respondent was subpoenaed to appear before the Board on October 17, 2001, where he testified that he had not repaired violations in his work for William Abline. Respondent admitted he was responsible for performing repairs with regard to violations in his work, and that it was reasonable to ask him to provide restitution for repairs which he himself ought to have performed, and which the consumer had to pay another contractor to perform.

Respondent has not paid such restitution to the consumer in this matter.

7. Respondent stated to the Board on October 17, 2001 that he would send to the Board a check or money order in the amount of \$76.24 made payable to William Abline. No payment was subsequently received.

2. Respondent's failure to respond to the June 8, 2001 and June 27, 2001 letters constituted a failure to cooperate with an investigation of the Board pursuant to N.J.A.C. 13:45C-1.2, thus subjecting him to sanctions pursuant to N.J.S.A. 45:1-21(h).

Based on the foregoing findings and conclusions, a Provisional Order of Discipline was entered on June 6, 2002, and a copy served upon respondent. The Order imposed upon respondent a civil penalty in the amount of \$5000, as well as \$241.85 in investigative costs, for a total of \$5241.85. Respondent was also ordered to pay restitution in the amount of \$76.24 to William Abline. Respondent was also to be subject to suspension of his license and business permit indefinitely until he forwarded to the Board certain documents. The Provisional Order of Discipline was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

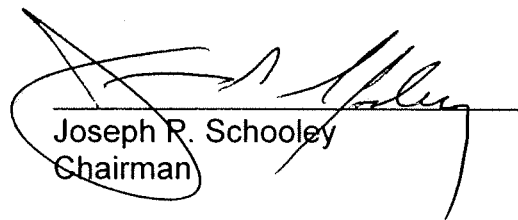
The record reflects that the Provisional Order was sent to respondent at his address of record by certified and regular mail; certified mail was returned unclaimed; regular mail was not returned. Because the Order was forwarded to respondent's address of record, the Board deems service to have been effected. No response has been received to date. Accordingly the Board considered the matter, determined that further proceedings were not necessary, and that the Provisional Order should be made final.

ACCORDINGLY, IT IS on this *2nd* day of *October* 2002,

ORDERED that:

1. Respondent is hereby assessed a civil penalty in the amount of \$5000, as well as investigative costs of \$241.85, for a total of \$5241.85.
2. Respondent is to pay restitution in the amount of \$76.24 to William Abline.
3. Respondent's license and business permit are indefinitely suspended until he has forwarded to the Board a copy of the final inspection and approval of electrical work performed by him at 709 Parkside Avenue, Toms River; or a letter explaining why he has not been able to obtain such a final inspection. Respondent is to explain in this letter the efforts he has made towards obtaining such a final inspection.
4. Payment of the total amount of \$5241.85 and the restitution of \$76.24 is due within 21 days following the issuance of this Order. Payment of the civil penalty of \$5241.85 shall be in the form of a certified check or money order made payable to the State of New Jersey, and forwarded to the attention of Barbara A. Cook, Executive Director, Board of Examiners of Electrical Contractors, P.O. Box 45006, 124 Halsey Street, 6th Floor, Newark, NJ 07101. Payment of the restitution shall be in the form of a certified check or money order made payable to William Abline sent to the same address.

STATE BOARD OF EXAMINERS
OF ELECTRICAL CONTRACTORS



Joseph R. Schooley
Chairman